IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.157 OF 2006

Saloni Equipments
& Exports Co. ..Appellants.

Vs.

Mrs.Thelma Kenneth
Peddar & Ors. ..Respondents.

Mr.Kamal Khatta i/b.Mr.Anil Agarwal for the Appellants.

Mr.Snehal Shah i/b.M/s.Rustamji & Ginwala for Respondent Nos.1 and 2.

CORAM: DR.S.RADHAKRISHNAN AND S.J.VAZIFDAR, JJ.
DATED: 25TH JULY, 2006

P.C. :

By consent, the Appeal is admitted and heard finally. The impugned order granting conditional leave to the Appellants to defend the Summary Suit warrants no interference.

2. The Appellant is admittedly liable on the suit bill of exchange as a drawer.

3. The main grievance is the claim of interest at 30% per annum. Admittedly, the bill of exchange did not specify the rate of interest. Thus, the claim in suit for interest at 30% per annum is unfounded.

4. Mr.Shah, the learned counsel appearing on behalf of the Respondent, fairly made a statement that the Respondent/Plaintiff would restrict the claim for interest at 18% per annum in accordance with the provisions of the Negotiable Instruments Act. Thus, even if a decree is passed, for any reason, interest would be limited to 18% per annum.

5. The contention that the part payment should be adjusted towards the principal, in the first instance, is not well founded. While making part payment, the Appellant did not specify that the same should be appropriated towards the principal amount. The Respondent adjusted the same as it was entitled to adjust the same towards interest in the first instance.

6. With the above clarification, the Appeal stands disposed of.

(DR.S.RADHAKRISHNAN, J.)

(S.J. VAZIFDAR, J.)